



Billing Code 4710-29

DEPARTMENT OF STATE

[Public Notice: 10201]

Notice of Issuance of a Presidential Permit to the State of North Dakota

AGENCY: Department of State

ACTION: Notice.

SUMMARY: The Acting Assistant Secretary of State for Oceans and International Environmental and Scientific Affairs, acting pursuant to delegated authorities, issued a Presidential permit to the State of North Dakota on October 24, 2017, authorizing the State of North Dakota to construct, connect, operate, and maintain the existing POE border-crossing facilities at the U.S.-Canada border in Pembina County, North Dakota. In accordance with Executive Order 11432 (August 16, 1968) as amended, the Acting Assistant Secretary of State for Oceans and International Environmental and Scientific Affairs determined that issuance of this permit would serve the national interest.

FOR FURTHER INFORMATION CONTACT: Bryan Koontz, 202-647-3030, koontzbk@state.gov.

SUPPLEMENTARY INFORMATION: Additional information concerning the Pembina-Emerson POE border crossing facilities and documents related to the Department of State's review of the application for a Presidential permit can be found at <https://www.state.gov/documents/organization/259783.pdf>. Following is the text of the permit, as issued:

PRESIDENTIAL PERMIT

AUTHORIZING THE STATE OF NORTH DAKOTA TO CONSTRUCT, CONNECT,

OPERATE, AND MAINTAIN THE PEMBINA-EMERSON PORT OF ENTRY AT
THE INTERNATIONAL BOUNDARY BETWEEN THE UNITED STATES AND
CANADA

By virtue of the authority vested in me as Acting Assistant Secretary of State for the Bureau of Oceans and International Environmental and Scientific Affairs, including those authorities under Executive Order 11423, 33 Fed. Reg. 11741 (1968); as amended by Executive Order 12847 of May 17, 1993, 58 Fed. Reg. 29511 (1993), Executive Order 13284 of January 23, 2003, 68 Fed. Reg. 4075 (2003), and Executive Order 13337 of April 30, 2004, 69 Fed. Reg. 25299 (2004); 25299 (2004); and Department of State Delegation of Authority 118-2 of January 26, 2006 and Delegation 415 of January 18, 2017; having considered the environmental effects of the proposed action consistent with the National Environmental Policy Act of 1969, as amended (83 Stat. 852, 42 U.S.C. 4321 et seq.), and other statutes relating to environmental concerns; having considered the proposed action consistent with the National Historic Preservation Act of 1966, as amended (80 Stat. 917, 16 U.S.C. 470f et seq.); and having requested and received the views of various of the federal departments and other interested persons; I hereby grant permission, subject to the conditions herein set forth, to the State of North Dakota (hereinafter referred to as “permittee”), to construct, connect, operate, and maintain the Pembina-Emerson Port of Entry (hereinafter referred to as the “POE”).

The term “facilities” as used in this permit means the port of entry, its approaches and any land, structures, or installations appurtenant thereto, including all structures as described in the May 2, 2016 for a Presidential permit (the “Application”) submitted by the permittee to the Department of State.

The term “U.S. facilities” as used in this permit means those parts of the facilities in the United States, as described in the Application.

This permit is subject to the following conditions:

Article 1. (1) The U.S. facilities herein described, and all aspects of their operation, shall be subject to all the conditions, provisions, and requirements of this permit, and any amendment thereof. This permit may be terminated at the will of the Secretary of State or the Secretary’s delegate or may be amended by the Secretary of State or the Secretary’s delegate at will or upon proper application therefore. The permittee shall make no substantial change in the U.S. facilities, the location of the U.S. facilities, or in the operation authorized by this permit until such changes have been approved by the Secretary of State or the Secretary’s delegate.

(2) The construction, connection, operation, and maintenance of the facilities shall be in all material respects as described in the Application.

Article 2. The standards for, and the manner of, the construction, connection, operation, and maintenance of the U.S. facilities shall be subject to inspection and approval by the representatives of appropriate federal, state, and local agencies. The permittee shall allow duly authorized officers and employees of such agencies free and unrestricted access to said facilities in the performance of their official duties.

Article 3. The permittee shall comply with all applicable federal, state, local, and tribal laws and regulations regarding the connection, construction, operation, and maintenance of the U.S. facilities and with all applicable industrial codes. The permittee shall obtain all requisite permits from the relevant Canadian authorities as well as from the relevant state and local government entities and relevant federal agencies.

Article 4. Upon the termination, revocation, or surrender of this permit, and unless otherwise agreed by the Secretary of State or the Secretary's delegate, the U.S. facilities in the immediate vicinity of the international boundary shall be removed by and at the expense of the permittee within such time as the Secretary of State or the Secretary's delegate may specify, and upon failure of the permittee to remove, or to take such other appropriate action with respect to this portion of the U.S. facilities as ordered, the Secretary of State or the Secretary's delegate may direct that possession of such facilities be taken and that they be removed or other action taken, at the expense of the permittee; and the permittee shall have no claim for damages by reason of such possession or removal or other action.

Article 5. All construction, connection, operation and maintenance of the U.S. facilities under this permit shall be subject to the limitations, terms, and conditions issued by any competent agency of the U.S. Government, including but not limited to the Department of Homeland Security and the General Services Administration. This permit shall continue in force and effect only so long as the permittee shall continue the operations hereby authorized in accordance with such limitations, terms, and conditions.

Article 6. When, in the opinion of the President of the United States, the national security of the United States demands it, due notice being given by the Secretary of State or the Secretary's delegate, the United States shall have the right to enter upon and take possession of any of the U.S. facilities or parts thereof; to retain possession, management, or control thereof for such length of time as may appear to the President to be necessary; and thereafter to restore possession and control to the permittee. In the event that the United States shall exercise such right, it shall pay to the permittee just and

fair compensation for the use of such U.S. facilities upon the basis of a reasonable profit in normal conditions and the cost of restoring said facilities to as good condition as existed at the time of entering and taking over the same, less the reasonable value of any improvements that may have been made by the United States.

Article 7. Any transfer of ownership or control of the U.S. facilities or any part thereof shall be immediately notified in writing to the Department of State for approval, including identification of the transferee. In the event of such transfer of ownership or control, this permit shall remain in force and the U.S. facilities shall be subject to all the conditions, permissions, and requirements of this permit and any amendments thereof unless subsequently terminated or amended by the Secretary of State or the Secretary's delegate.

Article 8. (1) The permittee shall acquire such right-of-way grants or easements, permits and other authorizations as may be necessary and appropriate.

(2) The permittee shall hold harmless and indemnify the United States from any claimed or adjudged liability arising out of the construction, connection, operation or maintenance of the facilities.

(3) The permittee shall maintain the U.S. facilities and every part thereof in a condition of good repair for their safe operation, and in compliance with prevailing environmental standards and regulations.

Article 9. The North Dakota Department of Transportation shall provide the General Services Administration an adequate Federal inspection facility at the United States terminal of the port of entry.

Article 10. The permittee shall take all appropriate measures to prevent or

mitigate adverse impacts on or disruption of the human environment in connection with the construction, operation and maintenance of the U.S. facilities, including those mitigation measures set forth in the Final Environmental Assessment dated February 17, 2016 and any additional measures that may be required as result of any reevaluation of the foregoing consistent with 23 C.F. R. Sec. 771.129(b).

Article 11. The permittee shall not begin construction until it has been informed that the Government of the United States and the Government of Canada have exchanged diplomatic notes confirming that both governments authorized the commencement of a proposed expansion of the port of entry.

Article 12. The permittee shall provide information upon request to the Department of State with regard to the U.S. facilities. Such requests could include, for example, information concerning current conditions or anticipated changes in ownership or control, construction, connection, operation or maintenance of the U.S. facilities.

Article 13. The permittee shall provide written notice to the Department of State at such time as the construction authorized by this permit is begun and again at such time as construction is completed, interrupted, or discontinued.

Article 14. The permittee shall file with the appropriate agencies of the U.S. government such statements or reports under oath with respect to the U.S. facilities, and/or the permittee's actions and operations in connection therewith, as are now, or may hereafter be, required under any laws or regulations of the U.S. government or its agencies.

Article 15. This permit shall expire ten years from the date of issuance of this permit in the event that the permittee has not commenced construction of the expansion of

the port of entry as described in the Application by that deadline. The remaining provisions of this permit shall remain in full force and effect.

IN WITNESS WHEREOF, I, Judith G. Garber, Acting Assistant Secretary for the Bureau of Oceans and International Environmental and Scientific Affairs, have hereunto set my hand this 24th day of October, 2017 in the City of Washington, District of Columbia.

Judith G. Garber
Acting Assistant Secretary for
Oceans and International
Environmental and Scientific Affairs

End of permit text.

Mark Cullinane,
*Acting Director, Office of Canadian Affairs,
Bureau of Western Hemisphere Affairs,
Department of State.*

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